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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,560	03/17/2004	Ellen Glassman	Sony-06600	5967

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EXAMINER
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SKAARUP, JASON M

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/803,560	<b>Applicant(s)</b> GLASSMAN ET AL.	
	<b>Examiner</b> Jason Skaarup	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 3-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Ortiz et al. (U.S. Patent Application Publication US 2003/0112354).

Ortiz et al. disclose a system and method that comprises respective means and steps for:

detecting a device (hand held device 703 is detected by another device 707 or a VPS device 702 of Figure 18 along with the related description thereof);

detecting a status level corresponding to the device (paragraph [0058], wherein an authorization level of the hand held device 703 corresponds to the claimed "status level" and wherein the authorization level is detected to allow the device 703 to receive venue-provided content);

receiving content on the device based on the status level (paragraphs [0058], [0059], [0063] and [0168], wherein authorized devices receive venue content); and

displaying the content on the device based on the status level (paragraphs [0058], [0059], [0063] and [0168], wherein venue content is displayed on authorized devices).

Regarding claim 3, Ortiz et al. disclose programming the device with the status level and storing the status level (paragraphs [0058], [0059] and [0063], wherein the device can be programmed with authorization data, stored in the device, to ensure venue content reception and display is authorized).

Regarding claims 4; 5, 6, Ortiz et al. disclose that the content includes an image, an audio track and a video footage (paragraph [0056], wherein content includes image, audio and video).

Regarding claims 7 and 13, Ortiz et al. disclose that patrons with hand held device 703 may be provided a temporary access or authorization code to access the venue and the wireless transmission network associated therewith for a fee (paragraph [0158]). In this manner, the device is a ticket for the venue (an entertainment event) and the device is permitted into the venue (or entertainment event) based on the access or authorization code (status level).

Regarding claim 8, Ortiz et al. disclose that the entertainment event is a concert (paragraphs [0002], [0099] and [0149] and stadium venue 701 of Figure 18 along with the related description thereof).

Regarding claim 9, Ortiz et al. disclose that the entertainment event is a baseball game (paragraphs [0002], [0099] and [0149] and stadium venue 701 and sports field 711 of Figure 18 along with the related description thereof).

Regarding claim 10, Ortiz et al. disclose that the entertainment event is a sporting event (paragraphs [0002], [0099] and [0149] and stadium venue 701 and sports field 711 of Figure 18 along with the related description thereof).

Regarding claim 11, Ortiz et al. disclose that the content is video of the entertainment event in real time (paragraphs [0100] and [0158]).

3. Claims 15-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Sitrick et al. (U.S. Patent No. 6,508,706).

Sitrick et al. disclose a micro-pc (12) having computer executable instructions to perform a method comprising:

programming a first device (card 305 of Figure 3) with a first status level (a first "persona" as described in col. 7, line 65 to col. 8, line 56);

the first device (card 305) detecting a second device (card 303) having a second status level (a second "persona" as described in col. 7, line 65 to col. 8, line 56 and having different qualities than the first "persona" as described in col. 7, lines 25-28);

comparing the first status level with the second status level (when card 305 communicates with card 303, qualities of the first and second "persona" are exchanged and compared as described in col. 8, line 63 to col. 9, line 26);

determining a winner between the first device and the second device (interactions between cards 303, 305 are governed by game rules as described in col. 9, lines 28-56); and

displaying content on the first device based on the winner (card content of card 303, in the form of character appearance, is modified based on interactions between card 303 and card 305 as described in col. 11, lines 16-22).

Regarding claim 16, Sitrick et al. disclose participating in a contest between the first device and the second device (interactions between cards 303, 305 are governed by game rules as described in col. 9, lines 28-56, wherein such interactions may

produce a "winner" by positively modifying "persona" qualities of card 303 or card 305 as described in Figures 6A, 6B and 6C along with the related descriptions thereof).

Regarding claim 17, Sitrick et al. disclose adjusting the first status level based on the winner.

Regarding claim 18, Sitrick et al. disclose storing the first status level (card 303 includes memory to store the respective "persona" thereof as described in col. 10, lines 32-35).

Regarding claim 19, Sitrick et al. disclose that the content represents a character associated with the first device (card content of card 303, in the form of character appearance, is modified based on interactions between card 303 and card 305 as described in col. 11, lines 16-22).

Regarding claims 20 and 21, Sitrick et al. disclose that the content corresponds to the first device winning or losing a contest between the first device and the second device (card content of card 303 is modified positively for positive interactions between card 303 and card 305 and is modified negatively for negative interactions between card 303 and card 305 as described in col. 11, lines 16-22 and shown in Figures 6A, 6B, 6C along with the related description thereof).

Further, Sitrick et al. disclose a device as recited in claim 22. The disclosed device of Sitrick et al. comprises:

- a location detection module (acoustic interface 134 of Figure 1 along with the related description thereof) to detect a location of a device (card 303 of Figure 3 along with the related description thereof);

- a storage module to store a profile information associated with the

device (interactions between cards 303, 305 are governed by game rules as described in col. 9, lines 28-56, wherein the game rules correspond to the "profile information");

an interface module for receiving content based on the profile information corresponding to the device and the location of the device (interactions between cards 303, 305 in close proximity as shown in Figure 3 along with the related description thereof are governed by game rules as described in col. 9, lines 28-56 and card content of card 303 is modified based on such interactions between card 303 and cards in close proximity as described in col. 11, lines 16-22); and

a display module for displaying the content on the device (card content of card 303 is modified based on such interactions between card 303 and cards in close proximity as described in col. 11, lines 16-22).

Regarding claim 23, Sitrick et al. disclose a hierarchy module for establishing a status level of the device (persona 210 of Figure 2 along with the related description thereof establishes the "persona" as described in col. 7, line 65 to col. 8, line 56).

Regarding claim 24, Sitrick et al. disclose that the content includes one of a textual data, graphical data, video footage, audio data, and image data (col. 6, lines 45-65).

Regarding claims 25 and 26, Sitrick et al. disclose an RF tag module for transmitting profile information to other devices and for receiving profile information from other devices (acoustic interface 134 of Figure 1 transmits and receives profile information, in the form of game rules, and all other communications between all cards 301-307 of Figure 3).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ortiz et al. in view of Bergman et al. (U.S. Patent Application Publication US 2002/0038259).

Ortiz et al. disclose a device (hand held device 703 of Figure 18) as described above with respect to claim 1. Specifically, Ortiz et al. teach that the device (703) may be used to vend products at a stadium venue (701). However, Ortiz et al. does not explicitly teach profile information associated with the device. In a related device, Bergman et al. disclose profile information (in the form of a user account as described in paragraph [0052] and Figure 15 along with the related description thereof) that is associated with a device. The profile information of Bergman et al. allows users to order and sell products at a stadium venue using the profile information. It would have been obvious for one skilled in the art at the time of the invention to incorporate the profile information as taught by Bergman et al. into the device taught by Ortiz et al. in order to order and sell products at a stadium venue as desirably taught by Bergman et al. in paragraph [0010].



**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and is listed on the attached Notice of References Cited (PTO-892).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jason Skaarup whose telephone number is 571-272-4455. The Examiner can normally be reached on Monday-Thursday (10:00-8:00).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Derris Banks can be reached at 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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